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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,483	08/18/2003	Tseng-Tien Peng	SP3023-P-1584-AAA	1871

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Tseng-Tien Peng
235 Chung-Ho Box 8-24
Taipei,
TAIWAN

EXAMINER	
SAUNDERS JR, JOSEPH	
ART UNIT	PAPER NUMBER
2615	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/642,483	PENG, TSENG-TIEN	
	Examiner	Art Unit	
	Joseph Saunders	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 August 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 August 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This is the initial office action based on the application filled August 18, 2003.

Claims 1 – 5 are currently pending and considered below.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1 – 5 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. US 7,064,964 B2.

Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Claim 1: The '964 reference claims a USP power amplified trumpet connecting device (USB power amplified trumpet connecting device); wherein a digital conversion chip (digital conversion chip) and a power amplifier chip (power amplifier chip (G)) are installed to one USB port for being further connected to a trumpet so as to emit sound directly (an input connected to a USB port as an input; and an output seat (I) capable of being connected to one of an earphone, a trumpet, and an optical fiber terminal; an earphone audio terminal connected to a Y shape connecting wire (R); the Y shape connecting wire (R) is an audio terminal; the Y shape connecting wire (R) is connected to a trumpet (E); an optical fiber terminal (L) connected to an optical fiber terminal (L); the optical fiber terminal (L) being further connected to a decoding amplifier (Q) through an optical fiber wire (M) and then to a trumpet (E)), thus the use of the USP power amplified trumpet connecting device is easy and is portable conveniently.

Claim 2: The '964 reference claims a USP power amplified trumpet connecting device (USB power amplified trumpet connecting device); wherein a digital conversion chip (digital conversion chip), a power amplifier chip (power amplifier chip (G)) and an output connector are installed to one USB port (an input connected to a USB port as an input; and an output seat (I) capable of being connected to one of an earphone, a trumpet, and an optical fiber terminal; an earphone audio terminal connected to a Y shape connecting wire (R); the Y shape connecting wire (R) is an audio terminal; the Y shape connecting wire (R) is connected to a trumpet (E); an optical fiber terminal (L) connected to an optical fiber terminal (L); the optical fiber terminal (L) being further

connected to a decoding amplifier (Q) through an optical fiber wire (M) and then to a trumpet (E)).

Claim 3: The '964 reference claims the USP power amplified trumpet connecting device as claimed in claim 2, wherein the output connector is connected to a trumpet and an earphone (an input connected to a USB port as an input; and an output seat (I) capable of being connected to one of an earphone, a trumpet, and an optical fiber terminal; an earphone audio terminal connected to a Y shape connecting wire (R); the Y shape connecting wire (R) is an audio terminal; the Y shape connecting wire (R) is connected to a trumpet (E); an optical fiber terminal (L) connected to an optical fiber terminal (L); the optical fiber terminal (L) being further connected to a decoding amplifier (Q) through an optical fiber wire (M) and then to a trumpet (E)).

Claim 4: The '964 reference claims the USP power amplified trumpet connecting device as claimed in claim 2, wherein the output connector is an optical fiber output connector which is connected to a decoder or an amplifier with optical fiber input so as to emit sound (an input connected to a USB port as an input; and an output seat (I) capable of being connected to one of an earphone, a trumpet, and an optical fiber terminal; an earphone audio terminal connected to a Y shape connecting wire (R); the Y shape connecting wire (R) is an audio terminal; the Y shape connecting wire (R) is connected to a trumpet (E); an optical fiber terminal (L) connected to an optical fiber terminal (L); the optical fiber terminal (L) being further connected to a decoding amplifier (Q) through

an optical fiber wire (M) and then to a trumpet (E)).

Claim 5: The '964 reference claims the USP power amplified trumpet connecting device as claimed in claim 2, wherein the output connector includes a general used output and an optical fiber terminal for being connected to an optical fiber output, an earphone or an trumpet (an input connected to a USB port as an input; and an output seat (I) capable of being connected to one of an earphone, a trumpet, and an optical fiber terminal; an earphone audio terminal connected to a Y shape connecting wire (R); the Y shape connecting wire (R) is an audio terminal; the Y shape connecting wire (R) is connected to a trumpet (E); an optical fiber terminal (L) connected to an optical fiber terminal (L); the optical fiber terminal (L) being further connected to a decoding amplifier (Q) through an optical fiber wire (M) and then to a trumpet (E)).

Specification

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The claim 3 states that the "output connector is connected to a trumpet and an earphone" but does not state that this occurs in the alternative. The specification does not disclose how the "USP power amplified trumpet connecting device" is connected to both the "trumpet" and the "earphone" at the same time. Figure 9 illustrates that there is only one jack or "output connector" located on the device and

therefore not possible for the two "plugs" shown in the figure to connect to the output connector of the device simultaneously.

5. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter. It is recommended that the whole specification be checked for grammatical errors and in particular the sections titled Background of the Invention and Summary of the Invention. For example, lines 8 and 9 "need" should be corrected to "needs" and an "a" should be inserted before "circuit board". These small changes and others that could be made throughout the specification would be greatly appreciated.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Pua et al. (US 6,490,163 B1), hereinafter Pua.

Claim 1: Pua discloses a USP power amplified trumpet connecting device (Figure 2); wherein a digital conversion chip (converter 15) and a power amplifier chip (audio amp 19) are installed to one USB port (USB port 17) for being further connected to a trumpet (audio output device 3) so as to emit sound directly, thus the use of the USP power amplified trumpet connecting device is easy and is portable conveniently (Column 2 Lines 6 – 36).

Claim 2: Pua discloses a USP power amplified trumpet connecting device (Figure 2); wherein a digital conversion chip (converter 15), a power amplifier chip (audio amp 19) and an output connector (audio connector 18) are installed to one USB port (USB port 17) (Column 2 Lines 6 – 36).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pua et al. (US 6,490,163 B1).

Claim 3: Claim 3 states the limitation of the "output connector is connected to a trumpet and an earphone". The examiner believes that if the "trumpet" and the "earphone" were

connected to the device there would be a splitter located external to the device. Since the claimed invention is a "USP power amplified trumpet connecting device" and not a "system" the components external to the device must only be capable of connecting to "a trumpet and an earphone". Therefore the limitation of the "output connector is connected to a trumpet and an earphone" does not limit the "USP power amplified trumpet connecting device".

Pua discloses the USP power amplified trumpet connecting device as claimed in claim 2, but *does not disclose* wherein the output connector is connected to a trumpet and an earphone. Pua does disclose wherein the output connector is connected to an audio output device 3, earphone, speaker, etc (Figure 2). Since it is well known in the art to split an electrical signal, for example, by using a splitter or y-adapter, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a splitter to connect the USP power amplified trumpet as disclosed by Pua to both a trumpet and an earphone therefore allowing it to connect to both devices simultaneously.

10. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pua et al. (US 6,490,163 B1) in view of Ohbayashi et al. (US 2002/0159716 A1), hereinafter Ohbayashi, and Miyauchi et al. (US 6,823,141 B2), hereinafter Miyauchi.

Claims 4 and 5: Claim 4 states that the "output connector is an optical fiber output connector". Since the claimed invention is a "USP power amplified trumpet connecting device" and not a "system" the device must only be capable of connecting to "a decoder

or an amplifier with optical fiber input so as to emit sound" by the "optical fiber output connector". Therefore the limitation of "connected to a decoder or an amplifier with optical fiber input so as to emit sound" does not limit the "USP power amplified trumpet connecting device".

Pua discloses the USP power amplified trumpet connecting device as claimed in claim 2, but *does not disclose* wherein the output connector is an optical fiber output connector which is connected to a decoder or an amplifier with optical fiber input so as to emit sound, and wherein the output connector includes a general used output and an optical fiber terminal for being connected to an optical fiber output, an earphone or an trumpet. Since Pua does not go into the details of the type of audio output connector 3 used in the USP power amplified device, one would be inclined to choose any suitable connector capable of outputting an audio signal. Ohbayashi discloses a micro optical connector and portable electronic device with connection terminal into which the plug of the optical connector is plugged, suitable for outputting an audio signal. "More particularly, the present invention relates to a subminiature optical connector having a subminiature single head plug which can be used in transmitting an optical signal as well as in transmitting an electrical signal, and to a portable type electronic apparatus having a connecting terminal of the optical connector mounted thereto," Paragraph 1 – 3. "In addition, the optical receptacle can be used together with the subminiature single head plug for only electrical signal use prescribed by JIS C6560," Paragraph 25 and 38. It would have been obvious to one of ordinary skill in the art at the time of the invention

to use an optical fiber output connector as disclosed by Ohbayashi in the USP power amplified trumpet connecting device as disclosed by Pua since the connector of Ohbayashi allows for both optical and electrical signals to transmit from one connector and therefore "it is possible to further miniaturize a portable type electronic apparatus by mounting such subminiature optical receptacle to the electronic apparatus," Paragraph 70. Miyauchi further discloses an optical transmission system comprising a transmitter with an optical output connected to the optical input of a receiver via an optical transmission line. Miyauchi discloses that the receiver contains a pre-amplifier 6 and an optical-electrical signal converter O/E 8 or decoder (Figures 1 and 2). Miyauchi discloses that the pre-amplifier in the receiver is necessary to amplify the weakened optical signal propagated on the transmission so that the optical signal can be properly detected and that the optical-electrical signal converter converts or decodes the optical signal into an electrical signal (Column 2 Lines 25 – 63). Since the speakers or trumpets and earphones are driven by electrical signals, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a pre-amplifier and an optical-electrical signal converter as disclosed by Miyauchi in the system disclosed by Pua and Ohbayashi before the signal enters the speakers, since having a pre-amplifier allows for proper reception of the optical signal and the decoder allows the optical signal to be converted into an electrical signal to drive the speakers and therefore output an audio signal.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Saunders whose telephone number is (571) 270-1063. The examiner can normally be reached on Monday - Thursday, 9:00 a.m. - 4:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS
February 14, 2007

SINH TRAN
SUPERVISORY PATENT EXAMINER